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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

HERMAN OSCAR BRITZ, JR.,

Plaintiff,

vs.

CLARK COUNTY REAL PROPERTY
MANAGEMENT, an agency of Clark County,
Nevada; CLARK COUNTY, NEVADA, a
governmental entity or subdivision,

Defendant.

Case No: 2:22-CV-00128-RFB-VCF

**REQUEST FOR EXEMPTION
FROM ENE ATTENDANCE
REQUIREMENT**

Defendant CLARK COUNTY (identified in the above-caption as both “Clark County Real Property Management” and “Clark County”) through its attorney STEVEN B. WOLFSON, District Attorney, by Scott R. Davis, Deputy District Attorney, and Nicole R. Malich, Deputy District Attorney in accordance with the Order Scheduling Early Neutral Evaluation Session (ECF# 7), requests exemption to the attendance requirements set forth therein as follows:

The authority of the Court to schedule an Early Neutral Evaluation (“ENE”) is found in LR 16-6. The issue of representation by a public body defendant at a settlement conference was addressed by the Advisory Committee to the Federal of Rules of Civil

1 Procedure in 1993. The Advisory Committee noted with regard to ordering the appearance of
2 a governmental entity, as follows:

3 Particularly in litigation in which governmental agencies or large
4 amounts of money are involved, there may be no one with on-
5 the-spot settlement authority, and the most that should be
6 expected is **access to a person who would have a major role in**
7 **submitting a recommendation to the body** or board with
ultimate decision-making authority. The selection of the
appropriate representative should ordinarily be left to the party
and its counsel.

8 Advisory Committee Note to 1993 Amendments to Fed. R. Civ. P. 16(c)(9) (emphasis
9 added.)

10 In this case, a seven-member Board of County Commissioners for Clark County has
11 the ultimate authority to settle the case. However, Defendants request an exception from
12 attendance by the Board of County Commissioners pursuant to LR 16-6(e). Les Lee Shell,
13 the Risk Manager for Clark County is the appropriate representative and will attend the
14 ENE.

15 As required by ECF # 7, the parties have consulted and agreed that this exemption is
16 appropriate. (See attached declaration).

17 CONCLUSION

18 Based upon the foregoing, Defendant requests an exception to the attendance
19 requirements for the ENE to allow the attendance of Les Lee Shell, as the authorized
20 representative of Defendant.

21 DATED this 2nd day of March 2022.

22 STEVEN B. WOLFSON
23 DISTRICT ATTORNEY

24 By: /s/ Scott R. Davis

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25 **IT IS SO ORDERED.**

26 
27 **U.S. MAGISTRATE JUDGE**
28

Dated: March 2, 2022